



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-914, A-557-824, A-549-846, A-583-871, A-552-835]

### **Boltless Steel Shelving Units Prepackaged for Sale from India, Malaysia, Taiwan, Thailand and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** Applicable May 15, 2023.

**FOR FURTHER INFORMATION CONTACT:** Andrew Huston (India), Samuel Frost (Malaysia), Joy Zhang (Taiwan), Fred Baker (Thailand), or Whitley Herndon (the Socialist Republic of Vietnam (Vietnam)); AD/CVD Operations, Offices VII, V, VI, and III, respectively, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-8180, (202) 482-6274, (202) 482-4261, (202) 482-2924, or (202) 482-1168, respectively.

### **SUPPLEMENTARY INFORMATION:**

#### The Petitions

On April 25, 2023, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of boltless steel shelving units prepackaged for sale (boltless steel shelving) from India, Malaysia, Taiwan, Thailand, and Vietnam filed in proper form on behalf of Edsal Manufacturing Co., Inc. (the petitioner), a domestic producer of boltless steel shelving.<sup>1</sup>

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<sup>1</sup> See Petitioner's Letter, "Boltless Steel Shelving Units Prepackaged for Sale from India, Malaysia, Taiwan, Thailand, and Vietnam – Petition for the Imposition of Antidumping Duties," dated April 25, 2023 (Petitions).

On April 27 and 28 and May 8 and 10, 2023, Commerce requested supplemental information pertaining to certain aspects of the Petitions.<sup>2</sup> The petitioner filed timely responses to these requests on May 1, 3, 8, and 10, 2023.<sup>3</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of boltless steel shelving from India, Malaysia, Taiwan, Thailand, and Vietnam are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the boltless steel shelving industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions were accompanied by information reasonably available to the petitioner supporting its allegations.

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<sup>2</sup> See Commerce's Letters, "Petitions for the Imposition of Antidumping Duties on Imports of Boltless Steel Shelving Units Prepackaged for Sale from India, Malaysia, Taiwan, Thailand, and the Socialist Republic of Vietnam: Supplemental Questions," dated April 27, 2023 (General Issues Questionnaire); and Country-Specific-Questionnaires: India Supplemental, Malaysia Supplemental, Taiwan Supplemental, Thailand Supplemental, and Vietnam Supplemental, dated April 28, 2023; *see also* Country-Specific Memoranda: India Memorandum, Malaysia Memorandum, Taiwan Memorandum, Thailand Memorandum, and Vietnam Memorandum, dated May 5, 2023; Memorandum, "Petition for the Imposition of Antidumping Duties on Imports of Boltless Steel Shelving Units Prepackaged for Sale from Taiwan – Phone Call with Counsel to the Petitioner," dated May 8, 2023; and Memorandum, "Phone Call with Counsel to the Petitioner," dated May 10, 2023 (Scope Memorandum).

<sup>3</sup> See Petitioner's Letters, "Boltless Steel Shelving from India, Malaysia, Taiwan, Thailand, and Vietnam – Petitioner's Supplement to Volume I Relating to Request for the Imposition of Antidumping Duties on Imports from India, Malaysia, Taiwan, Thailand, and Vietnam," dated May 1, 2023 (General Issues Supplement); "Petitioner's Response to the Department's Supplemental Questionnaire Regarding Volume II of the Petition for the Imposition of Antidumping Duties on Imports from India," dated May 3, 2023; "Petitioner's Response to the Department's Supplemental Questionnaire Regarding Volume III of the Petition for the Imposition of Antidumping Duties on Imports from Malaysia," dated May 3, 2023; "Petitioner's Response to the Department's Supplemental Questionnaire Regarding Volume IV of the Petition for the Imposition of Antidumping Duties on Imports from Taiwan," dated May 3, 2023; "Petitioner's Response to the Department's Supplemental Questionnaire Regarding Volume V of the Petition for the Imposition of Antidumping Duties on Imports from Thailand," dated May 3, 2023; "Petitioner's Response to the Department's Supplemental Questionnaire Regarding Volume VI of the Petition for the Imposition of Antidumping Duties on Imports from Vietnam," dated May 3, 2023; "Petitioner's Response to the Department's Second Supplemental Questionnaire Regarding Volume II of the Petition for the Imposition of Antidumping Duties on Imports from India," dated May 8, 2023; "Petitioner's Response to the Department's Second Supplemental Questionnaire Regarding Volume III of the Petition for the Imposition of Antidumping Duties on Imports from Malaysia," dated May 8, 2023; "Petitioner's Response to the Department's Second Supplemental Questionnaire Regarding Volume IV of the Petition for the Imposition of Antidumping Duties on Imports from Taiwan," dated May 8, 2023; "Petitioner's Response to the Department's Second Supplemental Questionnaire Regarding Volume V of the Petition for the Imposition of Antidumping Duties on Imports from Thailand," dated May 8, 2023; "Petitioner's Response to the Department's Second Supplemental Questionnaire Regarding Volume VI of the Petition for the Imposition of Antidumping Duties on Imports from Vietnam," dated May 8, 2023; and "Petitioner's 2<sup>nd</sup> Supplement to Volume I Relating to Request for the Imposition of Antidumping Duties on Imports from India, Malaysia, Taiwan, Thailand, and Vietnam," dated May 10, 2023 (Scope Supplement).

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act.

Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested LTFV investigations.<sup>4</sup>

#### Periods of Investigation

Because the Petitions were filed on April 25, 2023, the period of investigation (POI) for the India, Malaysia, Thailand, and Taiwan AD investigations is April 1, 2022, through March 31, 2023, pursuant to 19 CFR 351.204(b)(1). Because Vietnam is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the POI for the Vietnam AD investigation is October 1, 2022, through March 31, 2023.

#### Scope of the Investigations

The product covered by these investigations is boltless steel shelving from India, Malaysia, Taiwan, Thailand, and Vietnam. For a full description of the scope of these investigations, *see* the appendix to this notice.

#### Comments on the Scope of the Investigations

On April 27 and May 10, 2023, Commerce requested information from the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.<sup>5</sup> On May 1 and 10, 2023, the petitioner provided clarifications and revised the scope.<sup>6</sup> The description of the merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).<sup>7</sup> Commerce will

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<sup>4</sup> *See infra*, section titled "Determination of Industry Support for the Petitions."

<sup>5</sup> *See* General Issues Questionnaire; *see also* Scope Memorandum.

<sup>6</sup> *See* General Issues Supplement at 3-7 and Attachments 2 and 3; *see also* Scope Supplement.

<sup>7</sup> *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,<sup>8</sup> all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on June 5, 2023, which is the next business day after 20 calendar days from the signature date of this notice.<sup>9</sup> Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on June 15, 2023, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information that parties consider relevant to the scope of these investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of these investigations may be relevant, the party must contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of each of the concurrent AD investigations.

### Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.<sup>10</sup> An electronically-filed document must be received successfully in its entirety by the time and date on which it is due.

### Comments on Product Characteristics

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<sup>8</sup> See 19 CFR 351.102(b)(21) (defining "factual information").

<sup>9</sup> The deadline for comments falls on Sunday, June 4, 2023. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day (in this instance, June 5, 2023). See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, as Amended*, 70 FR 24533 (May 10, 2005) (*Next Business Day Rule*).

<sup>10</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at [https://access.trade.gov/help/Handbook\\_on\\_Electronic\\_Filing\\_Procedures.pdf](https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf).

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of boltless steel shelving to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOP) or costs of production (COP) accurately, as well as to develop appropriate product comparison criteria where appropriate.

Subsequent to the publication of this notice, Commerce intends to release a proposed list of physical characteristics and product-comparison criteria, and interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe boltless steel shelving, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on June 5, 2023, which is the next business day after 20 calendar days from the signature date of this notice.<sup>11</sup> Any rebuttal comments must be filed by 5:00 p.m. ET on June 15, 2023, which is 10 calendar days from the initial comment deadline. All comments and submissions to Commerce

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<sup>11</sup> See *Next Business Day Rule*.

must be filed electronically using ACCESS, as explained above, on the record of each of the LTFV investigations.

#### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the Act directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,<sup>12</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in

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<sup>12</sup> See section 771(10) of the Act.

different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>13</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.<sup>14</sup> Based on our analysis of the information submitted on the record, we have determined that boltless steel shelving, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.<sup>15</sup>

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in the appendix to this notice. To establish industry support, the petitioner provided its own production of boltless steel shelving in 2022 and compared this to the total volume of boltless steel shelving produced by the U.S. industry in 2022.<sup>16</sup> We relied on data provided by the petitioner for purposes of measuring industry support.<sup>17</sup>

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<sup>13</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

<sup>14</sup> See Petitions at Volume I (pages 15-17 and Exhibit GEN-10); *see also* General Issues Supplement at 3 and Attachment 1.

<sup>15</sup> For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see*, individually, AD Investigation Initiation Checklists, “Boltless Steel Shelving Units Prepackaged for Sale from India, Malaysia, Taiwan, Thailand, and the Socialist Republic of Vietnam,” dated concurrently with this notice (Country-Specific AD Initiation Checklists), at Attachment II (Analysis of Industry Support for the Antidumping Duty Petitions Covering Boltless Steel Shelving Units Prepackaged for Sale from India, Malaysia, Taiwan, Thailand, and the Socialist Republic of Vietnam).

<sup>16</sup> See Petitions at Volume I (page 3 and Exhibits GEN-4 and GEN-5).

<sup>17</sup> *Id.* at Volume I (pages 2-3 and Exhibits GEN-1 through GEN-5). For further discussion, *see* Attachment II of the Country-Specific AD Initiation Checklists.

Our review of the data provided in the Petitions, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.<sup>18</sup> First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>19</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.<sup>20</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.<sup>21</sup> Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.<sup>22</sup>

#### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>23</sup>

With regard to India, while the allegedly dumped imports from India do not exceed the statutory requirements for negligibility, the petitioner alleges and provides supporting evidence

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<sup>18</sup> See Petitions at Volume I (pages 2-3 and Exhibits GEN-1 through GEN-5). For further discussion, *see* Attachment II of the Country-Specific AD Initiation Checklists.

<sup>19</sup> See Attachment II of the Country-Specific AD Initiation Checklists; *see also* section 732(c)(4)(D) of the Act.

<sup>20</sup> See Attachment II of the Country-Specific AD Initiation Checklists.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> See Petitions at Volume I (pages 17-20 and Exhibits GEN-1 and GEN-11).



that: (1) there is a reasonable indication that the data obtained in the ITC's investigation will establish that imports exceed the negligibility threshold;<sup>24</sup> and (2) there is the potential that imports from India will imminently exceed the negligibility threshold and, therefore, are not negligible for purposes of a threat determination.<sup>25</sup> The petitioner's arguments regarding the limitations of publicly available import data and the reasonable indication that the data obtained in the ITC's investigation will establish that imports exceed the negligibility threshold are consistent with the SAA. Furthermore, the petitioner's arguments regarding the potential for imports from India to imminently exceed the negligibility threshold are consistent with the statutory criteria for "negligibility in threat analysis" under section 771(24)(A)(iv) of the Act, which provides that imports shall not be treated as negligible if there is a potential that subject imports from a country will imminently exceed the statutory requirements for negligibility.

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; declining market share; underselling and price depression and/or suppression; lost sales and revenues; decline in U.S. shipments, production, and capacity utilization; decline in employment variables; and adverse impact on financial performance.<sup>26</sup> We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.<sup>27</sup>

#### Allegations of Sales at LTFV

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<sup>24</sup> See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1 (1994) (SAA), at 857; *see also* Petitions at Volume I (pages 12-13, 18-20, and Exhibits GEN-1 and GEN-11).

<sup>25</sup> See section 771(24)(A)(iv) of the Act; *see also* Petitions at Volume I (pages 18-20 and Exhibits GEN-1 and GEN-11).

<sup>26</sup> See Petitions at Volume I (pages 14, 17-37 and Exhibits GEN-1, GEN-8, and GEN-10 through GEN-16); *see also* General Issues Supplement at 7-8 and Attachments 4-6.

<sup>27</sup> See Country-Specific AD Initiation Checklists at Attachment III (Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping Duty Petitions Covering Boltless Steel Shelving Units Prepackaged for Sale from India, Malaysia, Taiwan, Thailand, and the Socialist Republic of Vietnam).

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate these LTFV investigations on imports of boltless steel shelving from India, Malaysia, Taiwan, Thailand, and Vietnam. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the Country-Specific AD Initiation Checklists.

#### U.S. Price

For India, Malaysia, Thailand, Taiwan, and Vietnam, the petitioner based export price (EP) on pricing information for boltless steel shelving produced in, and exported from, the respective countries and sold or offered for sale in the United States.<sup>28</sup> The petitioner made certain adjustments for movement and other expenses for the U.S. price based on the pricing information to calculate a net U.S. price, where applicable.<sup>29</sup>

#### Normal Value<sup>30</sup>

The petitioner based NV on home market pricing information obtained through market research for boltless steel shelving produced in and sold, or offered for sale, in India, Malaysia, Thailand, and Taiwan during the applicable time period.<sup>31</sup>

Commerce considers Vietnam to be an NME country.<sup>32</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat Vietnam as an NME country for purposes of the initiation of this investigation. Accordingly, NV in Vietnam is appropriately based on FOPs valued in a surrogate market economy country, in accordance with section 773(c) of the Act.

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<sup>28</sup> See Country-Specific AD Initiation Checklists.

<sup>29</sup> *Id.*

<sup>30</sup> In accordance with section 773(b)(2) of the Act, for these investigations, Commerce will request information necessary to calculate the constructed value (CV) and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

<sup>31</sup> See Country-Specific AD Initiation Checklist.

<sup>32</sup> See, e.g., *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results, and Final Results of No Shipments of the Antidumping Duty Administrative Review; 2016-2017*, 84 FR 18007 (April 29, 2019).

The petitioner claims that Indonesia is an appropriate surrogate country for Vietnam because Indonesia is a market economy country that is at a level of economic development comparable to that of Vietnam and is a significant producer of comparable merchandise. The petitioner provided publicly available information from Indonesia to value all FOPs. Based on the information provided by the petitioner, we determine that it is appropriate to use Indonesia as a surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

#### Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of boltless steel shelving from India, Malaysia, Taiwan, Thailand, and Vietnam are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for boltless steel shelving from each of the countries covered by this initiation are as follows: (1) India – 175.31 percent; (2) Malaysia – 35.45 to 81.12 percent; (3) Taiwan – 78.12 percent; (4) Thailand – 176.62 to 187.03 percent; and (5) Vietnam – 92.60 to 224.94 percent.<sup>33</sup>

#### Initiation of LTFV Investigations

Based upon our examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating these LTFV investigations to determine whether imports of boltless steel shelving from India, Malaysia, Taiwan, Thailand, and Vietnam are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed,

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<sup>33</sup> *Id.*

we will make our preliminary determinations no later than 140 days after the date of this initiation.

### Respondent Selection

#### *India, Malaysia, Taiwan, and Thailand*

In the Petitions, the petitioner identified three companies in India, three companies in Malaysia, one company in Taiwan, and seven companies in Thailand as producers/exporters of boltless steel shelving.<sup>34</sup> Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of exporters or producers is large such that Commerce cannot individually examine each company based on its resources, where appropriate, Commerce intends to select mandatory respondents in these cases based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States subheadings listed in the “Scope of the Investigations,” in the appendix to this notice.

On May 8, 2023, Commerce released CBP data on U.S. imports of boltless steel shelving from Taiwan, under administrative protective order (APO) to all parties with access to information protected by APO.<sup>35</sup> On May 10, 2023, Commerce released CBP data on imports of boltless steel shelving from India, Malaysia, and Thailand under APO to all parties with access to information protected by APO.<sup>36</sup> When it released these data, Commerce indicated that interested parties wishing to comment on CBP data must do so within three business days of the publication date of the notice of initiation of these investigations. Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. ET on the specified deadline. Commerce will not

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<sup>34</sup> See Petitions at Volume I (page 14 and Exhibit GEN-7).

<sup>35</sup> See Memorandum, “Antidumping Duty Investigation of Boltless Steel Shelving Units Prepackaged for Sale from Taiwan: Release of Customs Data from U.S. Customs and Border Protection,” dated May 8, 2023.

<sup>36</sup> See Memoranda, “Boltless Steel Shelving Units Prepackaged for Sale from India: Release of Data from U.S. Customs and Border Protection,” dated May 10, 2023; “Petition for the Imposition of Antidumping Duties on Imports of Boltless Steel Shelving Units Prepackaged for Sale from Malaysia: Release of U.S. Customs and Border Protection Data,” dated May 10, 2023; and “Less-Than-Fair-Value Petition of Boltless Steel Shelving Units Prepackaged for Sale from Thailand: Release of U.S. Customs and Border Protection Data,” dated May 10, 2023.

accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at [https://access.trade.gov/Resources/Administrative\\_Protective\\_Order.aspx](https://access.trade.gov/Resources/Administrative_Protective_Order.aspx).

### *Vietnam*

In the Petition, the petitioner named three companies as producers/exporters of boltless steel shelving in Vietnam.<sup>37</sup> In accordance with our standard practice for respondent selection in AD investigations involving NME countries, Commerce selects respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large, and it cannot individually examine each company based upon its resources. Therefore, considering the number of Vietnamese producers and exporters identified in the Petitions, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. Given that there are three producers and exporters identified in the Petition, Commerce has determined that it will issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address.

In addition, Commerce will post the Q&V questionnaire along with filing instructions on Enforcement and Compliance's website at <https://www.trade.gov/ec-adcvd-case-announcements>. Producers/exporters of boltless steel shelving from Vietnam that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement and Compliance's website. In accordance with the standard practice for respondent selection in AD cases involving NME countries, in the event Commerce decides to limit the number of respondents individually investigated, Commerce intends to base respondent selection on the responses to the Q&V questionnaire that

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<sup>37</sup> See Petitions at Volume I (Exhibit GEN-4).

it receives.

Responses to the Q&V questionnaire must be submitted by the relevant Vietnamese producers/exporters no later than 5:00 p.m. ET on May 30, 2023, which is two weeks from the signature date of this notice.<sup>38</sup> All Q&V questionnaire responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above. Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

### Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate rate application.<sup>39</sup> The specific requirements for submitting a separate rate application in a Vietnam investigation are outlined in detail in the application itself, which is available on Commerce's website at <https://access.trade.gov/Resources/nme/nme-sep-rate.html>. The separate rate application will be due 30 days after publication of this initiation notice.<sup>40</sup> Exporters and producers who submit a separate rate application and have been selected as mandatory respondents will be eligible for consideration for separate rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from Vietnam submit a response to both the Q&V questionnaire and the separate rate application by the respective deadlines in order to receive consideration for separate rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

### Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for

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<sup>38</sup> Because the current deadline falls on a federal holiday (*i.e.*, May 29, 2023), the deadline is the next business day (*i.e.*, May 30, 2023). *See Next Business Day Rule*.

<sup>39</sup> *See* Policy Bulletin 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation Involving NME Countries" (April 5, 2005) (Policy Bulletin 05.1), available at <https://enforcement.trade.gov/policy/bull05-1.pdf>.

<sup>40</sup> Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

a separate rate in an NME investigation. Policy Bulletin 05.1 states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that {Commerce} will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.<sup>41</sup>

### Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of India, Malaysia, Thailand, Taiwan, and Vietnam via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

### ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of boltless steel shelving from India, Malaysia, Taiwan, Thailand, and/or Vietnam are materially injuring, or threatening material injury to, a U.S. industry.<sup>42</sup> A negative ITC determination for any country will result in the investigation being terminated with respect to that country.<sup>43</sup> Otherwise, these LTFV investigations will proceed according to statutory and regulatory time limits.

### Submission of Factual Information

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<sup>41</sup> See Policy Bulletin 05.1 at 6 (emphasis added).

<sup>42</sup> See section 733(a) of the Act.

<sup>43</sup> *Id.*

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce’s regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>44</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>45</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

#### Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to

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<sup>44</sup> See 19 CFR 351.301(b).

<sup>45</sup> See 19 CFR 351.301(b)(2).



administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's response to section D of Commerce's initial AD questionnaire.

#### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, standalone submission; Commerce will grant untimely filed requests for the extension of time limits only in limited cases where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning factual information prior to submitting factual information in these investigations.<sup>46</sup>

#### Certification Requirements

Any party submitting factual information in an AD or countervailing duty proceeding must certify to the accuracy and completeness of that information.<sup>47</sup> Parties must use the

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<sup>46</sup> See 19 CFR 351.301; *see also Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

<sup>47</sup> See section 782(b) of the Act.

certification formats provided in 19 CFR 351.303(g).<sup>48</sup> Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

#### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing a letter of appearance as discussed). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>49</sup>

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: May 15, 2023.

**Lisa W. Wang,**  
*Assistant Secretary*  
*for Enforcement and Compliance.*

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<sup>48</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at [https://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

<sup>49</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

## Appendix

### Scope of the Investigations

The scope of these investigations covers boltless steel shelving units prepackaged for sale, with or without decks (boltless steel shelving). The term “prepackaged for sale” means that, at a minimum, the steel vertical supports (*i.e.*, uprights and posts) and steel horizontal supports (*i.e.*, beams, braces) necessary to assemble a completed shelving unit (with or without decks) are packaged together for ultimate purchase by the end-user. The scope also includes add-on kits. Add-on kits include, but are not limited to, kits that allow the end-user to add an extension shelving unit onto an existing boltless steel shelving unit such that the extension and the original unit will share common frame elements (*e.g.*, two posts). The term “boltless” refers to steel shelving in which the vertical and horizontal supports forming the frame are assembled primarily without the use of nuts and bolts, or screws. The vertical and horizontal support members for boltless steel shelving are assembled by methods such as, but not limited to, fitting a rivet, punched or cut tab, or other similar connector on one support into a hole, slot or similar receptacle on another support. The supports lock together to form the frame for the shelving unit, and provide the structural integrity of the shelving unit separate from the inclusion of any decking. The incidental use of nuts and bolts, or screws to add accessories, wall anchors, tie-bars or shelf supports does not remove the product from scope. Boltless steel shelving units may also come packaged as partially assembled, such as when two upright supports are welded together with front-to-back supports, or are otherwise connected, to form an end unit for the frame. The boltless steel shelving covered by these investigations may be commonly described as rivet shelving, welded frame shelving, slot and tab shelving, and punched rivet (quasi-rivet) shelving as well as by other trade names. The term “deck” refers to the shelf that sits on or fits into the horizontal supports (beams or braces) to provide the horizontal storage surface of the shelving unit.

The scope includes all boltless steel shelving meeting the description above, regardless of: (1) vertical support or post type (including but not limited to open post, closed post and tubing); (2) horizontal support or beam/brace profile (including but not limited to Z-beam, C-beam, L-beam, step beam and cargo rack); (3) number of supports; (4) surface coating (including but not limited to paint, epoxy, powder coating, zinc and other metallic coating); (5) number of levels; (6) weight capacity; (7) shape (including but not limited to rectangular, square, and corner units); (8) decking material (including but not limited to wire decking, particle board, laminated board or no deck at all); or (9) the boltless method by which vertical and horizontal supports connect (including but not limited to keyhole and rivet, slot and tab, welded frame, punched rivet and clip).

Specifically excluded from the scope are:

- Wall-mounted shelving, defined as shelving that is hung on the wall and does not stand on, or transfer load to, the floor. The addition of a wall bracket or other device to attach otherwise freestanding subject merchandise to a wall does not meet the terms of this exclusion;
- Wire shelving units, which consist of shelves made from wire that incorporates both a wire deck and wire horizontal supports (taking the place of the horizontal beams and braces) into a single piece with tubular collars that slide over the posts and onto plastic sleeves snapped on the posts to create the finished shelving unit;

- Bulk-packed parts or components of boltless steel shelving units; and
- Made-to-order shelving systems.

Subject boltless steel shelving enters the United States through Harmonized Tariff Schedule of the United States (HTSUS) statistical subheading 9403.20.0075. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

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